

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

STANLEY HOLLAND,)
)
Plaintiff,)
)
v.) Case No. 06-0275-CV-W-NKL
)
JO ANNE B. BARNHART,)
Commissioner of Social Security,)
)
Defendant.)

ORDER GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS*

Pending before the Court is Stanley Holland's ("Holland") Amended Motion to Proceed *In Forma Pauperis* [Doc. # 6]. For the reasons set forth below, the Court grants Holland's Motion.

Pursuant to 28 U.S.C. § 1915(a), this Court may authorize commencement of a suit without prepayment of fees. Under 28 U.S.C. § 1915(a), the district court follows a two-step process in considering whether the applicant should be permitted to proceed *in forma pauperis*. First, the Court must determine whether the applicant qualifies by economic status under section 1915(a). *Martin-Trigona v. Stewart*, 691 F.2d 856, 857 (8th Cir. 1982). Second, the Court must determine whether the cause of action stated in the complaint is frivolous or malicious within the meaning of section 1915(d). *Id.*

Holland has provided this Court with an affidavit regarding his inability to prepay fees and costs. According to the affidavit, Holland is unemployed and he owns no

property or vehicles. He is married and his wife's income is not sufficient to meet their monthly obligations. Holland has no cash on hand. The Court finds that Holland has satisfied the first prong of the *Martin-Trigona* analysis.

The second prong of the *Martin-Trigona* test requires that the Court determine that an applicant's claims are not frivolous or malicious under § 1915(e)(2). This decision should be made prior to the issuance of process. *In re Funkhouser*, 873 F.2d 1076, 1077 (8th Cir. 1989). An action is frivolous within the meaning of § 1915(e)(2) if the court determines that "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Holland's Complaint seeks review of a decision denying social security supplemental income benefits. Based upon the information currently before the Court, there is no indication that this is a "frivolous or malicious" suit.

Because Holland has demonstrated that he satisfies § 1915's poverty requirement, and his suit appears non-frivolous, his Motion to proceed *in forma pauperis* will be granted.

Accordingly, it is hereby ORDERED that:

1. Holland's Amended Motion for Leave to Proceed *In Forma Pauperis* [Doc. # 6] is GRANTED, subject, however, to further consideration by the Court upon a showing that the allegation of poverty is untrue, or that the claim is frivolous under 28 U.S.C. § 1915.
2. Because this case is included in the Case Management/Electronic Case Filing

(CM/ECF) system, Holland's counsel shall be responsible for electronically filing the Complaint within **fifteen (15) days** of the date of this Order.

3. If the appropriate forms are provided to the Clerk of Court, the United States Marshal shall attempt service of process (by personal service or certified mail, return receipt requested) upon Defendant at the address supplied by Plaintiff and as directed by Rule 4.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Court

DATE: May 2, 2006
Kansas City, Missouri